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Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

LUCAS BRUNO III, CHRISTOPHER)	CIVIL NO. 03-00567 JMS BMK
GAHR, FRANK ROBERT PAULSON,)	
CHARLES TURNER, and TOM)	DEFENDANT'S SECOND STATEMENT
YOUNG,)	REGARDING EXHIBITS AND NOTICE
)	OF SUBMISSION OF DEFENDANT'S
Plaintiffs,)	AMENDED EXHIBIT LIST AND
)	CERTIFICATE OF SERVICE
vs.)	
)	
MICHAEL CHERTOFF, Secretary,)	
DEPARTMENT OF HOMELAND)	Trial: April 24, 2007
SECURITY,)	Judge: J. Michael Seabright
)	
Defendant.)	
_____)	

DEFENDANT'S SECOND STATEMENT
REGARDING EXHIBITS AND NOTICE OF SUBMISSION
OF DEFENDANT'S AMENDED EXHIBIT LIST

Under this court's scheduling order of January 29, 2007, the parties were to exchange trial exhibits by March 20, 2007, and to filed a stipulation regarding the authenticity and relevance of each parties' exhibits by today, March 27, 2007. This statement will set forth the reasons for the absence of such a stipulation.

On January 16, 2007, pursuant to the court's previous scheduling order, defendant sent his exhibits via email to plaintiff Christopher Gahr, who was then appearing pro se. Gahr did not produce any exhibits, nor did he respond to defense counsel's requests to confer regarding admissibility. See Defendant's Statement Regarding Exhibits and Notice Regarding Submission of Exhibit List, filed January 23, 2006.¹

Plaintiff subsequently obtained counsel, and the court continued the trial and entered the January 29 Scheduling Order. On March 20, the date set by the Scheduling Order for the parties to exchange exhibits, defense counsel confirmed to plaintiff's new counsel, Moises Aviles, that defendant had already served his exhibits.² Also on March 20, defense counsel received a faxed exhibit list from plaintiff's counsel. Plaintiff did not transmit any of his exhibits on that date or subsequently, until today. In the days following March 20, defense counsel left several telephone messages and sent one email to plaintiffs' counsel, requesting copies of those of plaintiff's exhibits that were not already in defendant's possession, and seeking to arrange a telephone conference to discuss stipulations. Plaintiff's counsel has not contacted defense counsel.

¹ The January 23 Statement erroneously says that defendant's initial production took place on that date, as opposed to a week earlier.

² On Friday, March 24, defendant sent two additional exhibits via email to plaintiff's counsel.

Today at about 12:20 p.m Hawaii time, plaintiff began faxing his exhibits to defense counsel (despite an earlier request from counsel that exhibits be scanned and emailed rather than faxed). Defense counsel is reviewing the documents, but will not be able to complete the review or contact plaintiff's counsel (assuming his availability) by the time court closes today. Therefore, in an effort to comply with the court's scheduling order as much as possible, defendant is filing his own amended exhibit list.

DATED: March 27, 2007, at Honolulu, Hawaii.

EDWARD H. KUBO, JR.
United States Attorney
District of Hawaii

/s/ Thomas A. Helper
By _____
THOMAS A. HELPER
Assistant U.S. Attorney

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YOUNG,)	
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Plaintiffs,)	
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)	
MICHAEL CHERTOFF, Secretary,)	
DEPARTMENT OF HOMELAND)	
SECURITY,)	
)	
Defendant.)	
_____)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the date and by the method of service noted below, a true and correct copy of the foregoing was served on the following at their last known address:

Served by First Class Mail:

Moises A. Aviles	March 27, 2007
Aviles & Associates	
560 N. Arrowhead Ave., Suite 2A	
San Bernardino, CA 92401	

Served Electronically through CM/ECF:

G. Todd Withy	March 27, 2007
Withylawcourt@aol.com , withylaw@aol.com	

Attorneys for Plaintiff
CHRISTOPHER GAHR

DATED: March 27, 2007, at Honolulu, Hawaii.

/s/ Coleen Tasaka-Shoda
